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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,821	04/28/2000	Michael Lorenz	ACD-01000US0-KJD	4627

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EXAMINER	
BLAIR, DOUGLAS B	

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/560,821	LORENZ ET AL.	
	Examiner	Art Unit	
	Douglas B Blair	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 October 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Claims 1-27 are currently pending in this application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 15, 22, 24 and 26 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for spawning a remote CGI program that retrieves objects from a data store, does not reasonably provide enablement for spawning a process on the client computer itself. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to implement various interpretations of the invention commensurate in scope with these claims. The claim language uses the generic terminology, "spawning a process" when the specification makes it clear that this "process" is actually a remote CGI program that retrieves objects from a data store.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 6, 8-9, 13-16, 18-24, and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,557,042 to He et al..

6. As to claim 1, He et al. teaches a method for obtaining streaming content from a processing device network (col. 3, lines 28-62), comprising the steps of: requesting an interface program from a first processing device in the processing device network (col. 4, lines 6-19); downloading the interface program to a second processing device in the processing device network (col. 4, lines 6-19); displaying a user interface on a display of the second processing device (col. 4, lines 6-19); requesting by the interface program a media file from a third processing device (col. 4, lines 6-19); requesting by the interface program a media file from a third processing device on the processing device network (col. 4, lines 6-19); downloading the media file to the second processing device, wherein the media file includes an embedded code (col. 4, lines 20-42); detecting an embedded code (col. 4, lines 43-67 and col. 5, lines 1-19); spawning a process by the interface program responsive to the embedded code (col. 4, lines 43-67 and col. 5, lines 1-19); parsing the embedded code into a plurality of code segments by the process (col. 4, lines 43-67 and col. 5, lines 1-19); querying a memory location in a data stored responsive to the embedded code segment in the plurality of segments (col. 4, lines 43-67 and col. 5, lines 1-19); and responding to rules in the memory location (col. 4, lines 43-67 and col. 5, lines 1-19).

7. As to claim 2, He et al. teaches the method of claim 1, wherein the rules include updating the displayed user interface with a high resolution image stored in the data store (col. 11, lines 17-23).

8. As to claim 3, He et al. teaches the method of claim 1, wherein the first processing device and the second processing device are different processing devices (col. 3, lines 28-67 and col. 4, lines 1-19).

9. As to claim 4, He et al. teaches the method of claim 1, wherein the second processing device is a personal computer having a web browser (col. 4, lines 6-19).

10. As to claim 6, He et al. teaches the method of claim 1, wherein the media file is an advanced steaming format file (col. 4, lines 43-55).

11. As to claim 8, He et al. teaches the method of claim 1, wherein the displayed user interface includes a first window, a second window, and a third window, wherein video is provided in the first window, a high resolution image is provided in the second window and text is provided in the third window (col. 11, lines 10-30 and Figure 5).

12. As to claim 9, He et al. teaches the method of claim 1, wherein the third processing device is a media server (col. 3, lines 28-67 and col. 4, lines 1-19).

13. As to claim 13, He et al. teaches the method of claim 1, wherein the embedded code is a metadata time code (col. 4, lines 21-42).

14. As to claim 14, He et al. teaches the method of claim 1, wherein the responding step includes updating the user interface display (col. 4, lines 6-19).

15. As to claim 15, He et al. teaches a system comprising a first processing device having a web browser; a data store for storing information (col. 4, lines 6-19); and a second processing

device coupled to the first processing device and the data store, for providing the first processing device with a displayed user interface and a media file having embedded code (col. 4, lines 6-19); wherein the user interface detects the embedded code during a media file download to the first processing device and wherein the second processing device creates a process for retrieving the information from the data store which is used to alter the displayed user interface (col. 4, lines 43-67 and col. 5, lines 1-19).

16. As to claim 16, He et al. teaches the system of claim 15, wherein the first and second processing devices are computers (col. 4, lines 6-19).

17. As to claim 18, He et al. teaches the system of claim 15, wherein the data store is a disk drive (col. 3, lines 56-62).

18. As to claim 19, it features the same limitations as claim 13 and is rejected on the same basis as claim 13.

19. As to claim 20, He et al. teaches the system of claim 15, wherein the first processing device and second processing device are coupled to the Internet (col. 3, lines 29-37).

20. As to claim 21, He et al. teaches the system of claim 15, wherein the first processing device and second processing device are coupled to an intranet (col. 3, lines 29-37).

21. As to claim 22, He et al. teaches an article of manufacture, including a computer readable memory, comprising: a first software program for providing content to a client (col. 4, lines 6-19); a second software program for providing streaming media to a client (col. 4, lines 6-19); a third software program for detecting an embedded code in the streaming media (col. 4, lines 43-67 and col. 5, lines 1-19); and a fourth software program for accessing a data store responsive to the embedded code (col. 4, lines 43-67 and col. 5, lines 1-19).

22. As to claim 23, He et al. teaches the article of manufacture of claim 22, wherein the data store includes a software object having rules, and where the rules are used to update a user interface (col. 11, lines 17-23).

23. As to claim 24, He et al. teaches a method for obtaining streaming content form a processing device network, comprising the steps of: downloading a media file having an embedded code (col. 4, lines 6-19); detecting the embedded code; passing a segment of the embedded code to a process (col. 4, lines 43-67 and col. 5, lines 1-19); accessing a database using the segment of the embedded code (col. 4, lines 43-67 and col. 5, lines 1-19); and downloading information stored in the database (col. 4, lines 43-67 and col. 5, lines 1-19).

24. As to claim 26, He et al. teaches a method comprising: downloading a steaming media content having an embedded code having an program name (col. 4, line 20-col. 5, line 19, the media type is identified so that the client knows what program to use to display the media stream); detecting the embedded code (col. 4, line 20-col. 5, line 19); obtaining the program name (col. 4, line 20-col. 5, line 19); executing the instructions at the program name; and, providing an image to a display responsive to executing the instructions (col. 4, line 20-col. 5, line 19).

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

26. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,557,042 to He et al. in view of U.S. Patent Number 6,205,485 to Kikinis.

27. As to claim 5, He et al. teaches the method of claim 1, however He et al. does not explicitly teach a box coupled to a television.

Kikinis teaches the distribution of steaming media via a set to box coupled to a television (col. 2, lines 15-57).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of He et al. regarding the distribution of multimedia content with the teachings of Kikinis regarding the use of a set top box to distribute media because a set top box allows a user to access multimedia content via the internet and also normal television programming (Kikinis, col. 1, lines 43-67 and col. 2, lines 1-12).

28. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,557,042 to He et al. in view of U.S. Patent Number 6,487,663 to Jaisimha et al..

29. As to claim 7, He et al. teaches the method of claim 1, however He et al. does not explicitly teach the media file being a real network media file.

Jaisimha teaches the distribution of real network media files (col. 6, lines 15-65).

It would be have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of He et al. regarding the distribution of multimedia content with the teachings of Jaisimha regarding the real media files because real media files allow a content provider to control the access to a media file (Jaisimha, col. 2, lines 15-49).

30. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,557,042 to He et al. in view of U.S. Patent Number 6,489,954 to Powlette.

31. As to claim 10, He et al. teaches the method of claim 1, however He et al. does not explicitly teach buffering a portion of the media file.

Powlette teaches buffering a portion of a media file (col. 7, lines 22-44).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of He et al. regarding the distribution of media content with the teachings of Powlette regarding buffering a portion of a media file because buffering is useful for storing media data that is to be updated on a client's computer (Powlette, col. 7, lines 22-44).

32. Claims 11-12, 17, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,557,042 to He et al. in view of U.S. Patent Number 6,434,535 to Kupka et al..

33. As to claim 11, He et al. teaches the method of claim 1, however He et al. does not explicitly teach metadata code with a format of a process identification, a variable, and a target destination.

Kupka teaches the use of metadata code with a format of a process identification, a variable, and a target destination (col. 13, lines 43-67 and col. 14, lines 1-16).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of He et al. regarding the distribution of media content with the teachings of Kupka regarding the use of metadata code with a format of a process identification, a variable, and a target destination because such information allows

distributors to better control the distribution of media on the Internet (col. 2, lines 56-67 and col. 3, lines 1-24).

34. As to claim 12, He et al. teaches the method of claim 1, however He et al. does not explicitly teach a process being a CGI program.

Kupka teaches the use of a CGI program for the distribution of media content (col. 13, lines 43-67 and col. 14, lines 1-16).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of He et al. regarding the distribution of media content with the teachings of Kupka regarding the use of a CGI program because a CGI program is a common way to present data over the Internet.

35. As to claim 17, it features the same limitation as claim 12 and is rejected on the same basis as claim 12.

36. As to claim 25, it features the same limitations as claim 11 and is rejected on the same basis as claim 11.

37. As to claim 27, He et al. teaches the use of an embedded code including a variable value used while executing instructions (col. 4, lines 20-42, the timeline variable).

Response to Arguments

38. Applicant's arguments filed 10/7/2004 in an Affidavit by Mr. Lorenz have been fully considered but they are not persuasive.

39. In response to paragraphs 1-10 of the Affidavit, the Examiner acknowledges the credentials and accomplishments of Mr. Lorenz.

40. In response to paragraph 11, the present claims do not convey anything more than a general concept of spawning a process based on code embedded in a media file. Accordant's software may be innovative but the claims do not adequately describe such innovation.

41. In response to paragraphs 12-19, the claims are broad enough to encompass the Examiner's interpretation. It is suggested that features that are critical to the invention be added to the claims in order to make the claims correspond to the applicant's actual invention. For example, the claim language uses the generic terminology, "spawning a process" when the specification makes it clear that this "process" is actually a remote CGI program that retrieves objects from a data store. The claim language should reflect such a critical feature.

Conclusion

42. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 571-272-3893. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.

Douglas Blair
December 3, 2004
DBB

JASON CARDONE
PRIMARY EXAMINER
AU: 2145